IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Tr.P(C).No. 38 of 2007()

AGAINST THE ORDER IN OPHMA.30 /2002 IN OS.6/2001 of FAMILY COURT,KOLLAM

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PETITIONER

LALITHAKUMARI, D/O.GOMATHI,
AGED 46 YEARS, KUNNUMPURATHU VEEDU,
CHARUMMOODU, AYIROOPPARA VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENTS:

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1. SUDARSANAN, KUNNUVILA VEEDU,
RESIDING WITH SUDHARSANAN, ELAVOOR,
PALLIMAN P.O., KOLLAM.

2. OMANA, KUNNUVILA VEEDU,
RESIDING WITH SUDHARSANAN, ELAVOOR,
PALLIMAN P.O., KOLLAM.

3. ANU, D/O.SUDHARSANAN,
KUNNUVILA VEEDU, ELAVOOR,
PALLIMAN P.O., KOLLAM DISTRICT.

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 377/07 IN Tr.P.C.38/07

DISMISSED:

11/7/07 SD/- M.N.KRISHNAN, JUDGE

jj /TRUE COPY/

P.A. TO JUDGE

M.N.KRISHNAN, J.

Tr.P.C.No. 38 OF 2007

Dated this the 11th July, 2007.

JUDGMENT

This petition is filed to transfer O.S.6/01 pending before the Family Court, Kollam to the Family Court, Thiruvananthapuram where O.P(HMA) 30/02 is pending between the parties. The transfer petitioner is the plaintiff in O.S.6/01 and she has filed a suit for setting aside a document alleged to be executed by her husband in favour of respondents 2 and 3 in the transfer petition. The allegation is to the effect that the husband is having illicit relationship with the second respondent and the third respondent is born to him in her and therefore petitioner wants to set aside the document. The other petitions are one for divorce filed by the husband and the other for enhancement of maintenance filed by the wife. So far as these cases are concerned, the case pending before the Family Court, Kollam has to be decided independently because the right to assign a property belonging to a person in favour of a third person is the issue involved. Whereas the case pending before the Family Court, Thiruvananthapuram deals with the real matrimonial dispute. I am not satisfied with the averments in the petition. One paragraph is allotted to complain about police officers and

yet another paragraph is allotted for the purpose of criticising the Family Court Judge and the real ground is that the distance between Kollam and Thiruvananthapurm is 65 kms. and therefore find it difficult to travel. The running time between Thiruvananthapuram and Kollam is hardly 1 to 1 1/2 hours and in this 21st century to travel a distance of 65 kms. cannot be considered as a ground for transferring the case. The very purport of conferring jurisdiction on the court by statutes can be easily defeated by casually resorting to Section 24 of the Transfer of Properties Act. I am afraid that this is not an intention and the Apex Court in the decision reported in **Anindita Das v. Srijit Das** {(2006) 9 SCC 197} has held that sympathy to ladies are found to be misused by them and therefore time has come to decide the case on facts and circumstances of each case. I am convinced that the facts and circumstance of this case does not warrant a transfer of the case from Family Court, Kollam to Family Court, Thiruvananthapuram. Therefore transfer petition is dismissed.

M.N.KRISHNAN
Judge

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